IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE FIFTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

and
THE HON'BLE MR JUSTICE B.SESHASAYANA REDDY

WRIT PETITION NO : 10634 of 2004

Between:

K.Balraj, S/o. K. Mallaiah, Aged about 43 years,

Occu: Constable, Office of Commissioner of Police,

Cyberabad, Hyderabad, res: of Hyderabad.

..... PETITIONER

AND

1. The Commissioner of Police, Cyberabad, Hyderabad.
2. The Superintendent of Police, Rangareddy District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein, the High Court may be pleased to issue an appropriate Writ or Direction more particularly one in the nature of certiorari calling for the records pertaining to O.A.No.2543 of 2004 dt. 14.5.2004 on the file of the A.P. Administrative Tribunal, Hyderabad and set aside the same and also to declare the action of the respondents in continuing the departmental enquiry when simultaneous criminal trial is going on against the petitioner as arbitrary, illegal and consequently direct the respondents to keep the departmental proceedings in abeyance till the finalization of the criminal case vide C.C.No. 339 of 2003 on the file of XIV Metropolitan Magistrate, Hyderabad and pass such other order or orders as

this Court may deem fit and proper in the interest of justice.

Counsel for the Petitioner: MR. S.KRISHNA SHARMA

Counsel for Respondents: GP FOR HOME

The Court made the following

ORAL ORDER:

(Per G.Bikshapathy, J)

1. The writ petition is filed challenging the order passed by the A.P. Administrative Tribunal (for short 'the Tribunal') in O.A.No.2543 of 2004, dated 14.05.2004.

2. Petitioner a Police Constable in the Police Department has been charged with the misconduct of allegedly manufacturing and supplying duplicate and spurious 501 and ETA detergent soaps of reputed Companies without any trade license and thus cheated the Government by evading the payment and made the public to believe that they were the products of reputed Companies. It is also on record that criminal prosecution was launched against the petitioner and he is facing trial in C.C.No.339 of 2003 on the file of the learned
XIV Metropolitan Magistrate, Hyderabad. Therefore, he filed O.A. 2543 of 2004 seeking directions to keep the departmental proceedings in abeyance till conclusion of the criminal proceedings before the learned Magistrate. The learned Tribunal heard the matter and dismissed the O.A. by an order dated 14.05.2004. Against the said order the present writ petition has been filed.

3. The learned Counsel for the petitioner, however, submits that the order of the Tribunal is not sustainable in law inasmuch as the witnesses to be produced and the documents to be marked are one and the same to that of evidence adduced in the criminal Court, and if the defence of the petitioner is made known in the

departmental proceedings, it will cause prejudice to the case of the petitioner, and thus he submits that the Tribunal ought to have directed the authorities to keep the departmental proceedings in abeyance. Therefore, he submits that the Order is liable to be set aside.

4. We have heard the learned Govt. Pleader.

5. The Tribunal has considered the matter with reference to the dicta laid down by the Supreme Court in ***Captain M.Paul Anthony vs. Bharat Gold Mines Limited and another***, wherein detailed guidelines were issued by the Supreme Court as to under what circumstances, the departmental proceedings can be stayed.

6 . Inasmuch as the petitioner is already facing criminal proceedings and the departmental proceedings are also in progress, it would be appropriate for the petitioner to bring to the notice of the departmental authorities in the event of his acquittal by the criminal Court. But merely because criminal case is pending, it is not a ground to postpone the departmental proceedings. Thus, we do not find any ground to interfere with the order passed by the Tribunal.

7. Accordingly, the writ petition is dismissed. No costs.

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(G.BIKSHAPATHY, J)

Dated: 5th July, 2004.

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(B.SESHASANAYA REDDY, J)

ASSISTANT REGISTRAR.

// TRUE COPY //

SECTION OFFICER

CHV & ak

One Fair Copy to the Hon'ble Sri Justice G.Bikshapathy (for His Lordship's kind perusal).

One Fair Copy to the Hon'ble Sri Justice B.Seshasayana Reddy (for His Lordship's kind perusal).

To

1.The Commissioner of Police, Cyberabad, Hyderabad.

2.The Superintendent of Police, Rangareddy district.

3.Two CCs to the learned Government Pleader for Home, High Court

Buildings, Hyderabad (O.U.T).

4.Two CD copies.

5.The Registrar, A.P. Administrative Tribunal, Hyderabad.